

SUBCOMMITTEE ON ELECTIONS OF THE COMMITTEE ON HOUSE ADMINISTRATION
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Madame Chairwoman and Ranking Member McCarthy, distinguished members of the Subcommittee, good morning and thank you for allowing me to testify today on the need to protect telephone town halls, a unique new form of live, two-way communication between Members of Congress and their constituents. My name is Rodney Smith. I am the Founder and President of Tele-Town Hall, LLC.

A telephone town hall is essentially an ordinary phone call that allows an elected official, legally recognized candidate or other VIP to have a real-time personal conversation on a mass scale with a targeted audience. There is no other medium currently providing a comparable means of communication. Telephone town halls are the next step in "live" one-to-one personal communication.

Well over 150 Members of the House and a growing number of Senators have used telephone town halls to contact their constituents directly from their D.C. or state offices. During a telephone town hall, when a constituent answers the phone, he or she hears the Member's prerecorded invitation to be connected to a live town hall meeting. During the meeting, constituents can press "0" on their phone keypads to ask the Member questions about public policy issues or, if they prefer, simply listen to the verbal interaction live with other constituents. They can also choose not to participate and may select an option that adds their phone number to our Do-Not-Call list.

The magic of a tele-town hall is that it allows individuals who have had little or no contact with their elected representative to communicate with that representative in real-time. Having a two-way personal conversation is what humanizes a phone conversation and enables the people involved to have meaningful emotional contact. Emotional contact is a prerequisite for developing a personal relationship. Personal relationships are important because they build friendship, loyalty and trust.

Building such trust between elected representatives and their constituents has never been more important than it is today, when too many of our citizens feel disconnected from government and the political process. Over the past two years, nationwide surveys by Rasmussen Reports have consistently found that 26% or fewer Americans have had a favorable view of Congress. Meanwhile, in October 2007, the Congressional Institute funded an extensive research study on the transformative effects of telephone town halls on constituent perceptions of Members of Congress. The study found that among both Republicans and Democrats participating in just one telephone town hall, their favorable view of their Congressman increased by at least 60%. Given these remarkable statistics, it would be tragic to allow this new telephone town hall technology to be outlawed by states.

Yet that is exactly what is happening, albeit unintentionally. In response to legitimate frustration expressed by consumers about the growing number of automated, prerecorded calls from telemarketers and political campaigns (known as "robo calls"), many states are enacting legislation to prohibit robo calls. While it is not the intent of these new laws to restrict telephone town halls, in many cases the laws' practical impact has been to prohibit tele-town halls because of the technology employed to establish contact with constituents.

To reach a sufficient number of people in a timely manner, a telephone town hall call must use an automated dialing system to initiate calls and a prerecorded introduction from the Member, candidate or other VIP to explain the purpose of the call and invite participants to join in on the live, real-time discussion. These two essential ingredients (an automated dialing system and a prerecorded

introduction) are what mistakenly link telephone town halls with robo calls. While robo calls also use automated dialing systems and a prerecorded message, they are not ordinary phone calls. Instead, the purpose of a robo call is to play a pre-recorded message to whoever answers the phone. By contrast, the purpose of a telephone town hall is to foster live, two-way communication between the parties involved in the call.

Existing robo call bans and pending legislation in many states would prohibit tele-town halls because state statutory language typically focuses on automated dialing and/or prerecorded messages as the trigger for application of the law. For example, in a ruling by U.S. District Judge Larry McKinney in Indiana, the court found that the state statute does not ban calling Indiana residents, it simply bans automated calls. In North Dakota, the Courts have upheld a ban on making prerecorded interstate calls to that state's residents. While such laws were not written to prohibit Telephone town halls, the practical impact is that they do.

Federal legislation is needed to ensure that telephone town halls are available for all elected officials and candidates as a means of efficiently and cost effectively conversing directly with constituents. I have included in my written testimony suggested legislative language that addresses this issue. I would urge the Subcommittee to consider this language in its deliberations relating to communications between Members of Congress and their constituents. To see exactly how a telephone town hall works you can visit our website at www.teletownhall.com and click on "See it perform." Thank you.

Section 227 of title 47, United States Code, is amended to read as follows:

(b) Restrictions on use of automated telephone equipment

(1) Prohibitions

* * *

(2) Political Communications

Notwithstanding any other provision of law, it shall be lawful to make any interstate call to facilitate two-way, real-time communication between the holder of an elective public office (or a legally recognized candidate for such office) and any constituent (or potential constituent).

[renumber existing subparagraphs (b)(2) and (b)(3)]

* * *

(e) Effect on State law

(1) State law not preempted

Except for subparagraph (b)(2), the standards prescribed under subsection (d) of this section and subject to paragraph (2) of this subsection, nothing in this section or in the regulations prescribed under this section shall preempt any State law that imposes more restrictive intrastate requirements or regulations on, or which prohibits -- (A) the use of telephone facsimile machines or other electronic devices to send unsolicited advertisements; (B) the use of automatic telephone dialing systems; (C) the use of artificial or prerecorded voice messages; or (D) the making of telephone solicitations.